

103^D CONGRESS
2^D SESSION

H. R. 1520

IN THE SENATE OF THE UNITED STATES

OCTOBER 5 (legislative day, SEPTEMBER 12), 1994

Received

AN ACT

To amend the Petroleum Marketing Practices Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Petroleum Marketing
5 Practices Act Amendments of 1994”.

6 **SEC. 2. CONVERSION TO COMPANY OPERATION.**

7 Section 102(b)(3)(A)(ii) of the Petroleum Marketing
8 Practices Act (15 U.S.C. 2802(b)(3)(A)(ii)) is amended
9 by inserting after “purpose of” the following: “converting
10 the leased marketing premises to operation by employees
11 or agents of the franchisor for the benefit of the franchisor
12 or otherwise”.

1 **SEC. 3. UNDERLYING LEASES.**

2 Section 102(c)(4) of the Petroleum Marketing Prac-
3 tices Act (15 U.S.C. 2802(c)(4)) is amended—

4 (1) by striking “lease, if” and all that follows
5 through “(B) of” and inserting the following: “lease,
6 if—

7 “(A) the franchisee was notified in writing,
8 prior to the commencement of the term of the
9 then existing franchise—

10 “(i) of the duration of the underlying
11 lease; and

12 “(ii) of”; and

13 (2) by adding at the end the following new sub-
14 paragraphs:

15 “(B) during the 90-day period after notifi-
16 cation was given pursuant to section 104, the
17 franchisor offers to assign to the franchisee any
18 option to extend the underlying lease or option
19 to purchase the marketing premises that is held
20 by the franchisor, except that the franchisor
21 may condition the assignment upon receipt by
22 the franchisor of—

23 “(i) an unconditional release executed
24 by both the landowner and the franchisee
25 releasing the franchisor from any and all

1 liability accruing after the date of the as-
2 signment for—

3 “(I) financial obligations under
4 the option (or the resulting extended
5 lease or purchase agreement);

6 “(II) environmental contamina-
7 tion to (or originating from) the mar-
8 keting premises; or

9 “(III) the operation or condition
10 of the marketing premises; and

11 “(ii) an instrument executed by both
12 the landowner and the franchisee that en-
13 sures the franchisor and the contractors of
14 the franchisor reasonable access to the
15 marketing premises for the purpose of test-
16 ing for and remediating any environmental
17 contamination that may be present at the
18 premises; and

19 “(C) in a situation in which the franchisee
20 acquires possession of the leased marketing
21 premises effective immediately after the loss of
22 the right of the franchisor to grant possession
23 (through an assignment pursuant to subpara-
24 graph (B) or by obtaining a new lease or pur-
25 chasing the marketing premises from the land-

owner), the franchisor (if requested in writing by the franchisee not later than 30 days after notification was given pursuant to section 104), during the 90-day period after notification was given pursuant to section 104—

“(i) made a bona fide offer to sell, transfer, or assign to the franchisee the interest of the franchisor in any improvements or equipment located on the premises; or

“(ii) if applicable, offered the franchisee a right of first refusal (for at least 45 days) of an offer, made by another person, to purchase the interest of the franchisor in the improvements and equipment.”.

SEC. 4. WAIVER OF RIGHTS.

Section 105 of the Petroleum Marketing Practices Act (15 U.S.C. 2805) is amended by adding at the end the following new subsection:

“(f)(1) No franchisor shall require, as a condition of entering into or renewing the franchise relationship, a franchisee to release or waive—

“(A) any right that the franchisee has under this title or other Federal law; or

1 “(B) any right that the franchisee may have
2 under any valid and applicable State law.

3 “(2) No provision of any franchise shall be valid or
4 enforceable if the provision specifies that the interpreta-
5 tion or enforcement of the franchise shall be governed by
6 the law of any State other than the State in which the
7 franchisee has the principal place of business of the
8 franchisee.”.

9 **SEC. 5. PREEMPTION.**

10 Section 106 of the Petroleum Marketing Practices
11 Act (15 U.S.C. 2806) is amended—

12 (1) in subsection (a)—

13 (A) by inserting “(1)” after “(a)”; and

14 (B) by adding at the end the following new
15 paragraph:

16 “(2) No State or political subdivision of a State may
17 adopt, enforce, or continue in effect any provision of law
18 (including a regulation) that requires a payment for the
19 goodwill of a franchisee on the termination of a franchise
20 or nonrenewal of a franchise relationship authorized by
21 this title.”; and

22 (2) in subsection (b)—

23 (A) by inserting “(1)” after “(b)”; and

24 (B) by adding at the end the following new
25 paragraph:

1 “(2) Nothing in this title shall prohibit any State
2 from specifying the terms and conditions under which any
3 franchise or franchise relationship may be transferred to
4 the designated successor of a franchisee upon the death
5 of the franchisee.”.

6 **SEC. 6. DEFINITION OF FAILURE.**

7 Section 101(13) of the Petroleum Marketing Prac-
8 tices Act (15 U.S.C. 2801(13)) is amended—

9 (1) by striking “or” at the end of subparagraph
10 (A);

11 (2) by striking the period at the end of sub-
12 paragraph (B) and inserting in lieu thereof “; or”;
13 and

14 (3) by adding at the end the following new sub-
15 paragraph:

16 “(C) any failure based on a provision of
17 the franchise which is illegal or unenforceable
18 under the law of any State (or subdivision
19 thereof).”.

Passed the House of Representatives October 4,
1994.

Attest: DONNALD K. ANDERSON,
Clerk.